

Appl. No. : **10/723,045**
Filed : **November 26, 2003**

REMARKS

Claims 1-26 are pending prior to entry of these amendments, with Claims 1-15 being withdrawn. Claims 16, 19, 22-24, and 26 are amended herein. Claim 21 is canceled.

Election/Restrictions

Applicants affirm the earlier election of Claim 16-26, without traverse. Claims 1-15 are withdrawn from further consideration as being withdrawn to a non-elected invention.

Rejections Under 35 U.S.C. §102

Claims 16-26 are rejected under 35 U.S.C. §102(e) as being anticipated by Mayer et al., U.S. Patent No. 6,572,920. Claim 16 has been amended to recite a second filter element disposed between the lower chamber and the upper chamber to define an intermediate chamber. This amendment is fully supported by the specification, as originally filed, at, for example, paragraph [0062] and Figure 9a. Claim 23 has been amended to recite that the upper inlet port is in a wall of the upper chamber. This amendment is fully supported by the specification, as originally filed, at, for example, Figure 9a. Claims 19, 22, 24, and 26 have been amended to conform with the amendment of Claim 16 and cancellation of Claim 21.

Mayer et al. do not disclose or suggest a second filter element disposed between the lower chamber and the upper chamber to define an intermediate chamber or an upper inlet port coupled to the solution housing configured to deliver the process solution to the upper chamber of the solution housing to fill the upper chamber and the lower chamber immersing the electrode in the lower chamber, as recited in amended Claim 16. The Examiner contends that Mayer et al. disclose a first filter element 468 and a second filter element 66, and an upper chamber (volume between 466 and 470), a lower chamber 462, and an intermediate chamber 464. The Examiner also points to an “inlet port for the upper chamber.” As amended, Claim 16 recites that an upper inlet port is coupled to the solution housing configured to deliver the process solution to the upper chamber of the solution housing. To the extent Mayer et al. disclose an upper chamber as recited in amended Claim 16, it is above the diffuser 466 and there is no inlet to that volume. Thus, Mayer et al. do not disclose or suggest an inlet port coupled to the solution housing and

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configured to deliver process solution to the upper chamber (volume between 466 and 470). In Mayer et al., the inlet port 460 to which the Examiner points delivers solution to the diffused manifold 464, which the Examiner points to as the recited intermediate chamber, not the upper chamber, as recited in amended Claim 16. Mayer et al. do not disclose or suggest an upper inlet port configured to deliver process solution to the “upper chamber” as Mayer et al. teach that the catholyte “passes upward through the diffuser membrane 466 and contacts wafer 470.” Thus, Mayer et al. provide no motivation for an upper inlet port configured to deliver process solution to the upper chamber as Mayer et al. teach to flow the solution upward through a membrane from the diffuser manifold 464 into the volume above the diffuser 466. See Mayer et al., at Col., 13, lines 34-48.

Claim 16, as amended, is therefore patentable over Mayer et al. Claims 17-20 and 22-26, which depend from and include all of the limitation of amended Claim 16, are also patentable over Mayer et al. Furthermore, each of the dependent claims recites further distinguishing features of particular utility.

Double Patenting

Claims 16-26 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over Claims 1 and 8-9 of U.S. Patent No. 6,695,962, Uzoh et al., in view of Mayer et al., U.S. Patent No. 6,572,920. Applicant respectfully disagrees that Claims 16-26 are unpatentable over Claims 1 and 8-9 of the ‘920 patent.

As noted by the Examiner, Uzoh et al. do not “specifically teach an upper inlet port coupled to the solution housing configured to deliver process solution to the upper chamber.” As discussed above, Mayer et al. teach to flow the solution upward through a membrane from the diffuser manifold 464 into the “upper chamber” and provide no motivation for an upper inlet port configured to deliver process solution to the “upper chamber.” Thus, Applicant respectfully submits that there is no motivation to combine the claims of the ‘920 patent with Mayer et al. and respectfully traverses this double patenting rejection as applied to the amended claims. Even such a combination would not arrive at the claimed invention.

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Conclusion

Applicants respectfully submit that all of the pending claims are patentably distinguishable over the prior art of record. The cited references, either alone or in combination, do not teach or suggest Applicants' claimed invention.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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